

REMARKS

Claims 1-18 are pending in the Application. Claims 1-8 and 10-17 remain rejected for the same reasons as presented in the previous Final Office Action (12/20/2005). Claims 9 and 18 are now objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and intervening claims.

Applicant amended claims 9 and 18 to be rewritten in independent form including all of the limitations of the base claim and intervening claims. Consequently, claims 9 and 18 are allowable.

Applicant notes that claims 9 and 18 were not amended to overcome prior art but to be rewritten in independent form. Hence, no prosecution history estoppel arises from the amendments to claims 9 and 18. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 62 U.S.P.Q.2d 1705, 1711-12 (2002); 56 U.S.P.Q.2d 1865, 1870 (Fed. Cir. 2000). Further, the amendments made to claims 9 and 18 were not made for a substantial reason related to patentability and therefore no prosecution history estoppel arises from such amendments. *See Festo Corp.*, 62 U.S.P.Q.2d 1705 at 1707 (2002); *Warner-Jenkinson Co. v. Hilton Davis Chemical Co.*, 41 U.S.P.Q.2d 1865, 1873 (1997).

Further, with respect to the rejections of claims 1-8 and 10-17, Applicant respectfully reinstates the Appeal Brief filed on April 24, 2006 by filing herewith a second notice of appeal in compliance with 37 C.F.R. §41.31 and filing separately a complete new Appeal Brief (referred to as the "Second Appeal Brief") in compliance with 37 C.F.R. §41.37. Applicant notes that any fees paid for the first notice of appeal and for the first Appeal Brief previously paid will be applied to this second appeal.

Respectfully submitted,

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